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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,665	07/31/2001	Clifford Sosin	2001611-0027	4670

7590

09/16/2002

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EXAMINER

AVERY, BRIDGET D

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 09/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/919,665

Applicant(s)

SOSIN ET AL.

Examiner

Bridget Avery

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 6, 13-18, 20 and 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-12, 19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Applicant's election of Species II in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 6, 13-18, 20 and 22-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

**Note:** Contrary to applicant's remarks regarding claims 13-16 and 20 being readable on the elected species, the features claimed in 13, 14 and 22 correspond to Figure 12 (Species VIII), the features claimed in 15 and 16 correspond to Figure 7 (Species VI) and the features of claims 23 and 24 correspond to Figure 10A-14B (Species VII-X). Accordingly, the claims have been withdrawn as being drawn to a nonelected species.

An action on the merits of claims 1-5, 7-12, 19 and 21 follows.

**DETAILED ACTION**

The preliminary amendment filed on October 1, 2001 is acknowledged and has been entered.

The Information Disclosure Statement filed by applicant on April 12, 2002 is acknowledged.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the dock mechanism adapted to altered in size (claim 8) and the ship mechanism adapted to be altered in size (claim 9)" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. "A binding mechanism **affixed** to said ship mechanism" has already been recited in claim 1, line 3. The examiner notes that Webster's II New Riverside University Dictionary defines "affix" as "To attach".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, 10 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kincheloe US Patent 5,035,443.

Kincheloe teaches a transferable binding apparatus including: a ship mechanism (28); a binding mechanism (16, 18) affixed to the ship mechanism (28); a dock mechanism (26) adapted to attach to a snowboard and adapted to receive the ship mechanism (28); an attaching mechanism (96) adapted to attach the dock mechanism (26) to the ship mechanism (28); the attaching mechanism (96) is selected from the group consisting of: screws and wing nuts; and the attaching mechanism (96) includes a releasable spring-loaded assembly (84); the dock mechanism (26) is obtained separately from the ski and attached at the direction of the user; and the dock mechanism (26) is adapted in a pocket configuration with at least one open side to receive the ship mechanism (28) and the ship mechanism (28) is adapted to be inserted into the at least one open side of the pocket configuration. The method for transferring a binding including the steps of affixing a binding mechanism to a ship mechanism; affixing a dock mechanism to a ski; and attaching the ship mechanism to the dock mechanism is taught by the reference (see Figure 1) and is therefore anticipated.

Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wariakois US Patent 5,984,324.

Wariakois teaches a transferable binding apparatus including: a ship mechanism (74); a binding mechanism (72) affixed to the ship mechanism (74); a dock mechanism (58) adapted to attach to a ski (12, 14) and adapted to receive the ship mechanism (74); an attaching mechanism (84 along with bolts) adapted to attach the dock mechanism to the ship mechanism (74); and the binding mechanism (72) is selected from the group consisting of: an alpine ski binding mechanism, a telemark ski binding mechanism, and a cross-country ski binding mechanism.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kincheloe '443.

Kincheloe teaches the features described above.

Kincheloe lacks the exact teaching of a dock mechanism and a ship mechanism permanently attached.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to permanently attach the dock mechanism and the ship mechanism at the time of manufacture, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. See *In re Larson et al.* 144 U.S.P.Q. 347.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kincheloe '443.

Kincheloe teaches the features described above.

Kincheloe lacks the exact teaching of an adjustable dock mechanism and an adjustable ship mechanism.

It would have been obvious to one having ordinary skill in the art at the time the invention was made make the dock mechanism and the ship mechanism adjustable, since it has been held that the provision of adjustability, where needed (i.e. to accommodate different sizes), involves only routine skill in the art. *In re Stevens*, 101 U.S.P.Q. 284 (CCPA 1954).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hillair et al. shows a release binding for slideboard.

Neiley shows a footwear mounting system.

Hansen et al. shows a binding for athletic gear.

Mansure shows a binding assembly for a snowboard.

Covert et al. shows a snowboard binding.

Napoliello shows a releasable mounting for a snowboard binding.

Beyl shows a ski boot.

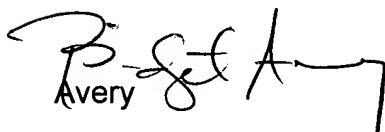
Oakes shows a ski boot with sole cavity binding.

Conn shows triple skate attachments.


Turnheim et al. shows a ski boot.

Spademan shows a safety binding.

Any inquiry concerning this communication should be directed to Bridget Avery  
at telephone number 703-308-2086.

  
Avery

September 9, 2002

  
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9/10/02